IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

–

WRIT PETITION NOS.7516, 5860, 6011, 6304, 6438, 6579,

9091,9583,9656,9688,9689,9691,9692,9695,9746,14488,14490,

14493,14494,14542,15123,5886,5888,5889,5898,14495 AND 9690 OF 2004.

W.P.NO.7516 OF 2004

Between:

1 M/s. New Sridhar Wines, Station Ghanpur [near Railway Gate] rep., by its Licensee Mr.R.Sridhar S/o. Yadagiri, R/o.Hanamkonda, Warangal District.
2 M/s. Sri Rama Wines, Shop H.No.5-12-5, Station Ghanpur, rep., by its Licensee, Mr.T.Raji Reddy S/o. Krishna Reddy, aged 42 years, R/o. Station Ghanpur, Warangal District.
3 M/s. Sri Venkata Ramana Wines, Shop No.4-53-4/D, Station Ghanpur, rep., by its Licensee, Mr. N.V.L.Narasimha Reddy, S/o. Ranga Reddy, R/o. Hanumakonda, Warangal District.
4 M/s. Durga Wines, Shop New House, Station Ghanpur, rep., by its Licensee, Mr. P. Rangith Reddy, S/o. Buchi Reddy, R/o. Malkapur, Warangal District.
5 M/s. Jaya Brandy Shop,House No.2-40,, Station Ghanpur, rep., by its Licensee, Mr. M. Mondaya S/o. Rajaya, R/o. Warangal District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep., by its Principal Secretary, Revenue [Excise-II] Department,

Secretariat Buildings, Hyderabad.
2 The Commissioner of Prohibition & Excise, A.P.,

Nampally, Hyderabad.

3 The Prohibition & Excise Superintendent, Warangal District,
Warangal.
4 The Prohibition & Excise Inspector, Station Ghanpur, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate writ or direction, declaring the proceedings issued by the 3rd respondent in RC.No.502/2004/P&E/A1 dated 12.3.2004 and consequential demand notices issued by the 4th respondents in his proceedings in RC.No.18/2004 P& Ex. dated 18.3.2004 to the petitioners are illegal, arbitrary and further declare that the respondents have no authority to demand differential license fee for the excise year 2002-2003 and 2003-2004 from the petitioners and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.RAVINDER

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.5860 OF 2004

Between:

M/s. R.R. Wines H. No. 5-2/1 Station Ghanpur rep by Licensee,

Mr.R. Ravinder S/o Somaiah, 41 R/o Station Ghanpur, Warangal District

..... PETITIONER

AND

1 The Government of A.P., repby Principal Secretary, Revenue (Excise-
II) Department, Secretariat
Buildings, Hyderabad
2 The Commissioner of Prohibition & Excise, A.P.

Nampally, Hyderabad
3 The Prohibition & Excixe Superintendent, Warangal District,
Warangal
4 The prohibition & Excise Inspector Station Ghanpur, Warangal

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of mandamus or any other appropriate Writ or direction, declaring the proceedings issued by the 3rd respondent in Rc. No. 502/2004/P&E/A1 dated 12-03-2004 and consequential demand notice issued by the 4th respondents in his proceedings in Rc. No. 18/2004/P & Ex dt 18-3-2004 to the petitioners are illegal, arbitrary and further declare that the respondents have no authority to demand differential license fee for the excise year 2002-2003 and 2003-2004 from the petitioners.

Counsel for the Petitioner: MR.A.RAVINDER

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.6011 OF 2004

Between:

1 R. Sridhar S/o Yadagiri
R/o Hanamknda, Warangal District

M/s. New Sridhar Wines
Station Ghanapur
(Near Railway Gate) Warangal District rep by Licencee
2 T. Raji Reddy S/o Krishna Reddy,
R/o Station Ghanapur, Warangal District Licencee of M/s. Sri rama Wines Shop No. 5-12-5, Station Ghanapur, Warangal District
3 N.V.L. Narasimha reddy S/o Ranga Reddy
R/o Hanamakonda Warangal District Licencee of

M/s. Sri Venkataramana wines
H. No. 4-53-3/D, Station Ghanapur Warangal District
4 P. Ranjit Reddy S/o Buchi Reddy
R/o Malkapur, Warangal District Licencee of M/s. Durga wines, Shop New House Station Ghanapur, Warangal district
5 M. Mondaya S/o Rajaya
R/o Warangal Licencee M/s. Jaya Brandy Shop H. No. 2-40,

Station Ganapur, Warangal District
6 R. Ravinder S/o Somaiah
R/o Station Ganapur, Warangal District Licencee of M/s. R.R. Wines, H. No. 5-2/1, Station Ganapur, Warangal District

..... PETITIONERS

AND

1 Government of Andhra Pradesh Revenue (ExciseII) Department Secrtariat, Hyderabad rep by Principal Secretary
2 The Commissioner of Prohibition and Excise, Andhra Pradesh, Nampally, Hyderabad
3 The Prohibition and Excise Superintendent Warangal District, Warangal
4 The Prohibition and Excise Inspector Station Ghanapur, Warangal District

-----RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondents in insisting payment of the licence fee at Rs. 1,50,000/- for one quart instead of Rs. 1,00,000/- as illegal, arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.6304 OF 2004

Between:

M/s.Nandini Wines, Yedpally, Nizamabad Dist.

Rep. by its Proprietor B.Ram Mohan

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, Govt.of A.P.at Nampally,Hyderabad.
2 The Prohibition & Excise Superintendent, Nizamabad,

Nizamabad District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings Rc.No.SHO/BDN/IML/04 dated - 3-2004 as arbitrary, illegal, without jurisdiction and violative of Article 14 of the Constitution of India.

Counsel for the Petitioner: MR.V.TULASI REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

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W.P.NO.6438 OF 2004

Between:

Katta Rajeswara Rao, S/o.Suryanarayana,
R/o.Bondada Village Kalla Mandal, West Godavari District.

Licencee of M/s Vija Sree Wines, Laxminarasimhapuram.

..... PETITIONER

AND

1 Govt.of A.P.Revenue (Excise II) Dept., Secretariat, Hyderabad.
2 The Commissioner of Prohibition & Excise Andhra Pradesh, Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent, W.G.Dist. at Eluru.
4 The Prohibition and Excise Inspector Akiveedu, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the proceedings of the 3rd respondent issued in Rc.No.379/2004/A2 dated 29-3-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

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W.P.NO.6579 OF 2004

Between:

Y.Gandhi, S/o Sriramulu,,aged 45 years
R/o Velivennu Village, Undrajavaram Mandal, West Godavari District Licencee of M/s Krishna Wines.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise-II) Department, Secretariat, Hyderabad rep.by its Principal Secretary.
2 The Commissioner of Prohibition and Excise, Andhra Pradesh, Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent, West Godavari District at Eluru.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the proceedings of the 3rd respondent issued in Rc.No.144/2004/B1 dated 29-3-2004 as illegal, arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9091 OF 2004

Between:

M. Ganga Reddy, S/o Ganga Ram,
Owner of M/s Sreenivasa Wines, Dharpally, R/o Dharpally (V & M), Nizamabad District.

..... PETITIONER

AND

1 The Prohibition and Excise Superintendent, Nizamabad, Nizamabad District.
2 The Mandal Revenue Officer, Dharpally Mandal, Nizamabad District.
3 The Station House Officer, Prohibition and Excise P.S., Bheemgal, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the notice dt. 31-3-2004 issued in RC.NO. E2/284/04 by the 1st Respondent and the proceedings dt 29-4-2004 issued under Revenue Recovery Act Appendix-II, Standing Order No. 41 of A.P. Revenue Recovery Act No 11/1964 by the 3rd Respondent, as illegal, arbitrary, mala fide and against the principles of natural justice and set aside the same

Counsel for the Petitioner: MR.CH.JANARDHAN REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9583 OF 2004

Between:

Shaik Mohammad Sharief, S/o.Ajamathali,
R/o.Gullapalli Village, Nakirekal Mandal, Guntur Dist.

Licencee of M/s Sri Venkateswara Wines.

..... PETITIONER

AND

1 Govt.of A.P.Revenue (Excise II) Department Secretariat,
Hyderabad., rep. by its Principal Secretary.
2 The Commissioner of Proh. & Excise, Andhra Pradesh,Nampally,
Hyderabad.
3 The Prohibition and Excise Superintendent Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No.189/2004/B2 dated 1-6-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9656 OF 2004

Between:

Pentareddy Inna Reddy, S/o Sowri Reddy,
R/o Atchempet village, Guntur District, Licencee of

M/s Bala Yesu Wines.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise II) Department,
Secretariat, Hyderabad, rep. by its Principal Secretary.
2 The Commissioner of Prohibition and Excise, Andhra Pradesh,
Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No. 189/2004/B2 dated 1-6-2004 as illegal , arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9688 OF 2004

Between:

Vuyyuru Satyanarayana, S/o Sambasiva Rao,
R/o Duggirala Village, Duggirala Mandal, Guntur District.
Licencee of M/s Anupama Wines

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise II) Department,

Secretariat, Hyderabad rep.by its Principal Secretary.
2 The Commissioner of Prohibition and Excise, Andhra Pradesh,

Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No.189/2004/B2 dated 1-6-2004 as illegal, arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

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W.P.NO.9689 OF 2004

Between:

Marri Narisi Reddy, S/o. Appi Reddy,
R/o. Kondamodu Village Rajupalem Mandal, Guntur District,
Licencee of M/s. Sri Lakshmi Narasimha Wines.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise II) Department,
Secretariat, Hyderabad rep. by its Principal Secretary.
2 The Commissioner of Prohibition and Excise Andhra Pradesh,
Nampally, Hyderabad,
3 The Prohibition and Excise Superintendent Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate Writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No. 189/2004/B2 dated 1-6-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under and pass such other or further orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9691 OF 2004

Between:

Bijjam Hajrat Reddy, S/o. Pedda Yella Reddy,
R/o. Nakarikallu Village, Guntur District.

Licences of M/s. Kamala Wines

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise II) Department,
Secretariat, Hyderabad. rep by its Principal Secretary
2 The Commissioner of Prohibition and Excise Andhra Pradesh,
Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc NO. 189/2004/B2 dated 1-6-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9692 OF 2004

Between:

Penumutchu Latish, S/o Subba Rao,
R/o Perecherla Village, Medikonduru Mandal, Guntur District
Licencee of M/s Sri Vijaya Durga Wines

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue (Excise - II) Department,
Secretariat, Hyderabad rep.by its Principal Secretary.
2 The Commissioner of Prohibition and Excise, Andhra Pradesh,

Nampally, Hyderabad.
3 The Prohibition and Excise Superintendent, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No.189/2004/B2 dated 1-6-2004 as illegal, arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9695 OF 2004

Between:

Pamulapati Sivannarayana S/o Ankamma Rao
R/o Perecherla Village Medikonduru Mandal, Guntur District
Licencee of M/s. Sri Lakshmi Srinivasa Wines

..... PETITIONER

AND

1 Government of Andhra Pradesh Revenue (ExciseII) Department
Secretariat, Hyderabad rep by Principal Secretary

2 The Commissioner of Prohibition and excise Andhra Pradesh,
Nampally, Hyderabad
3 The Prohibition and Excise Superintendent Guntur

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc. No. 189/2004/B2 dated 1-6-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.9746 OF 2004

Between:

M/s.Venkat Sai Wines rep. by its Proprietor

S.Ramana, S/o.Rangaiah, aged about 35 yrs
R/o.Thallapally Village, Mancherial Mandal,
Adilabad Dist.

..... PETITIONER

AND

1. Prohibition & Excise Superintendent, Adilabad.

2 Commissioner of Prohibition and Excise, A.P.Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari or any other appropriate writ and quash the notice of the 1st respondent in Rc.No.A7/501/2004 dated 20-05-2004, if necessary by declaring that the instructions allegedly issued by the 2nd respondent dated 12-03-2004 are invalid and unsustainable in law and direct the respondents to forbear from recovering any differential licence fee amount from the petitioner for the Excise years 2002-2003 and 2003-04 for the IL-24 Licence of the petitioner in Thallapally Village, Mancherial Mandal, Adilabad District and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.14488 OF 2004

Between:

M/s. Rama Wines, rep. by Licencee, Sri B. Prabhakar Reddy, S/o. Narasimha Reddy Ranga Reddy District.

..... PETITIONER

AND

1 The Govt of A.P., Revenue (ExciseII) Dept., Secretariat,
Hyderabad. rep. by its Prl. Secretary.
2 The Commissioner of Proh & Excise, Nampally, Hyderabad.
3 The Prohibition & Excise Superintendent, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an order or writ one in the nature of writ of Mandamus, declaring the notice in Cr.No.E6/4850/3005-5,
Dt. 05.07.2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the Rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P.NO.14490 OF 2004

Between:

M/s. Sri Durga Wines, Rep. by Licencee Sri B. Prabhakar, S/o. Ramdas, R/o. Ranga Reddy District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Revenue (Excise II)
Department, Secretariat,
Hyderabad, Rep. by its Principal Secretary.
2 The Commissioner of Prohibition & Excise Nampally, Hyderabad.
3 The Prohibition & Excise Superintendent, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus, declaring the notice in Cr.No.E6/850/2004-7, dt. 05-07-2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the Rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO. : 14493 of 2004

Between:

M/s Aruna Wines, rep by Licencee Sri K. Venkatesh,
S/o. Pentaiah,
R/o. Ranga Reddy District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh Revenue (Excise II)

Department, Secretariat
Hyderabad, rep by its Principal Secretary.
2 The Commissioner of Prohibition and Excise Nampally,

Hyderabad.
3 The Prohibition and Excise Superintendent, Ranga Reddy.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of writ of Mandamus, declaring the notice in Cr.No.E6/4850/2004-8 Dt.5.7.2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

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W.P. NO.: 14494 of 2004

Between:

M/s.Apna Wines, rep., by Licencee, Sri D.Narasimha Reddy,

s/o Malla Reddy,
r/o Ranga Reddy District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Revenue (Excise II)

Department, Secretariat, Hyderabad, rep., by its Principal Secretary.

2 The Commissioner of Prohibition & Excise, Nampally, Hyderabad.
3 The Prohibition & Excise Superintendent, Ranga Reddy.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of writ of Mandamus, declaring the notice in Cr.No.E6/4850/2004-6, dt.05-07-2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the Rule made thereunder.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 14542 of 2004

Between:

M/s. Sri Jaya Durga Wines, rep by Sri K. Srisailam,

W/o Swamy R/o Ranga Reddy District

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

Revenue (Excise II) Department, Secretariat,
Hyderabad, rep by Principal Secrtary
2 The Commissioner of Prohibition & Excise Nampally, Hyderabad
3 The Prohibition & Excise Superintendent, Ranga Reddy

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or Writ one in the nature of Writ of Mandamus, declaring the notice in Cr. No. E6/4850/2004-3,
dt 05-07-2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the Rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 15123 of 2004

Between:

M/s. Raghavendra Wines, Rep. by Licencee,
Sri. T. Bikshapathi, S/o. Yellaiah, aged about 51 Years,

R/o. Ranga Reddy District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

Revenue (Excise II) Department, Secretariat,
Hyderabad, Rep. by its Principal Secretary.
2 The Commissioner of Prohibition & Excise Nampally, Hyderabad.
3 The Prohibition & Excise Superintendent, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus, declaring the notice in Cr.No.E6/4850/2004-1, dt. 05-07-2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the Rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 5886 of 2004

Between:

E.Ravi Krishna S/o Srimannarayana
Angluru Village
Krishna Dist Licence of SRD Wines, Penamaluru

..... PETITIONER

AND

1 The Commissioner , Prohibition and Excise
Nampally, Hyderabad
2 The Proh.and Excise Superintendent Machilipatnam,
Krishna Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not renewing the liecence of the petitioner for the excise year 2004-05 by treating the licenced premises of the petitioner is located within a distance of 5 Kms. periphery limits of Municipal corporation Vijayawada as illegal, arbitrary and without jurisdiction and consequently direct the 2nd respondent to renew the Form IL-24 Licence of the petitioner by Collecting appropriate licence fee as applicable to the shops situated

by beyond 5 Kms . periphery limits from Municipal Corporation Vijayawada.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 5888 of 2004

Between:

V.Prasada Rao, S/o Pothu Raju,
R/o Penamaluru Village, Krishna District,

Licencee of Sri Rama Durga Wines,
Penamaluru.

..... PETITIONER

AND

1 The Commissioner, Prohibition and Excise, Nampally,

Hyderabad.
2 The Proh.and Excise Superintendent, Machilipatnam,

Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not renewing the licence of the Petitioner for the excise year 2004-05 by treating the licenced premises of the petitioner is located within a distance of 5 Kms. periphery limits of Municipal Corporation Vijayawada as illegal, arbitrary and without jurisdiction and consequently direct the 2nd respondent to renew the Form IL-24 Licence of the petitioner by Collecting appropriate licence fee as applicable to the shops situated beyond 5 Kms. periphery limits from Municipal Corporation, Vijayawada.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 5889 of 2004

Between:

N.Mohan Rao, S/o.Ranga Rao,
R/o.Penamaluru Village, Krishna Dist.

Lincencee of TRK Wines.

..... PETITIONER

AND

1 The Commissioner,Prohibition and Excise, Nampally, Hyderabad.
2 The Proh.and Excise Superintendent Machilipatnam,

Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the 2nd respondent in not renewing the licence of the petitioner for the excise year 2004-05 by treating the licenced premises of the petitioner is located within a distance of 5 kms. periphery limits of Municipal corporation Vijayawada as illegal, arbitrary and without jurisdiction and consequently direct the 2nd respondent to renew the Form IL-24 Licence of the petitioner by collecting appropriate licence as applicable to the shops situated beyond 5 kms. periphery limits from Municipal Corporation Vijayawada.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

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W.P. NO.: 5898 of 2004

Between:

R.Siva Ramakrishna, S/o Sambasiva Rao,
R/o Penamaluru Village, Krishna District,
Licencee of Dilkush Wines, Penamaluru.

..... PETITIONER

AND

1 The Commissioner, Prohibition and Excise, Nampally, Hyderabad.
2 The Proh.and Excise Superintendent, Machilipatnam,

Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not renewing the licence of the Petitioner for the excise year 2004-05 by treating the licenced premises of the

petitioner is located within a distance of 5 kms, periphery limits of Municipal Corporation, Vijayawada as illegal, arbitrary and without jurisdiction and consequently direct the 2nd respondent to renew the Form IL-24 Licence of the petitioner by Collecting appropriate licence fee as applicable to the shops situated beyond 5 kms, periphery limits from Municipal Corporation, Vijayawada.

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 14495 of 2004

Between:

M/s Sri Sai Vamshi Wines, rep.by Licencee,

Sri Ch.Santhosh Reddy, S/o Sanjeeva Reddy,
R/o Ranga Reddy District

..... PETITIONER

AND

1 The Government of Andhra Pradesh,

Revenue (Excise-II) Department, Secretariat,
Hyderabad rep.by its Principal Secretary
2 The Commissioner of Prohibition & Excise, Nampally, Hyderabad
3 The Prohibition & Excise Superintendent, Ranga Reddy

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ one in the nature of Writ of Mandamus, declaring the notice in Cr.No.E6/4850/2004-4, dated 05-07-2004 as arbitrary, illegal, unjust and contrary to the provisions of the A.P. Excise Act and the rule made there under.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

W.P. NO.: 9690 of 2004

Between:

Koteswara Rao, S/o.Kotaiah,
R/o.Karampudi Village, Karampudi Mandal,

Guntur Dist. Licencee of M/s Navayuga Wines.

..... PETITIONER

AND

1 Govt. of Andhra Pradesh Revenue (Excise II) Department

Secretariat, Hyderabad. rep. by its Principal Secretary.
2 The Commissioner of Prohibition and Excise Andhra Pradesh

Nampally, Hyderabad.
3 The Prohibition & Excise Superintendent, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the show cause notice issued by the 3rd respondent in proposing to cancel the petitioner's licence by his proceedings Rc.No.189/2004/B2 dated 1-6-2004 as illegal arbitrary and contrary to the provisions of the A.P. Excise Act and the rules made there under..

Counsel for the Petitioner: MR.A.JAGANNADHA RAO

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

THE COURT MADE THE FOLLOWING;

COMMON ORDER

Since common question arises in all these matters, they have been taken up together for disposal. The petitioners herein who are all the license holders under the provisions of the A.P. Excise Act, 1968 and Rules made there under seek Writ of Mandamus challenging the impugned demands made in respect of the difference of license fee basing upon the population figures as arrived at by the Census in the year 2001 as illegal.

The case of the petitioners in brief is that having granted license earlier and fixed the license fee, the same cannot be reviewed basing on the subsequent Census figures as arrived at in the year 2001 and therefore, once year expires, the question of levy also does not arise. Further, it is also their case that the Census figures on which the reliance is placed is only a provisional one and not being a final one and cannot form any basis for such demand. However, there is no dispute with regard to fee leviable for the subsequent years except the extent of demands as now sought to be questioned in these Writ Petitions.

The learned counsel for the petitioners by referring to the various provisions of A.P. Excise Act and the Rules made there under, submits that once license granted becomes final, the liability cannot be varied merely because of variation in the Census figures as arrived at by the authorities.

The learned Government Pleader sought to sustain the impugned action of the respondents on the ground that the liability squarely depends upon the population for which the basis can only be extended from out of the Census figures arrived at by the competent authorities and therefore, the demand made is perfectly valid.

By going through all the pleadings of both sides, the points which cannot be disputed are that the petitioners are license holders at the relevant point of time and the demands now made is on the basis of Census report for the year 2001. In the decision rendered by the Division Bench of this Court in batch of cases in W.A.No.1934 of 2001 and batch dated 10-6-2003, all such similar pleas were rejected. Considering the scope of Rule 35 of the A.P. Liquor and Foreign Liquor Rules, 1970, it was held that the liability to pay the license fee is automatic and the same shall be as amended from time to time at the rates shown to the schedule appended to the rules and the collection of license fee for the lease year in terms of rules does not amount to any re-determination or revision and further it shows that the annual license fee is amended from time to time at the rates shown in the schedule appended to the rules. Similarly considering the very same question in another batch of cases the same Division Bench as per the Judgment in W.A.No.1610 of 2002 and batch dated 31-3-2003 has held that the population as required to consider is the one on official publicity in the latest Census and provisional publication is also an official publication and therefore, the authorities can place reliance on such Census figures and make a necessary demand. Yet in another decision by another Division Bench of this Court in W.A.No.1978 of 2003 dated 27-11-2003 it was considered that the population of the village should be understood as revenue village. Thus, having regard to the fact that all these questions already squarely came up for consideration in the aforesaid decisions of the Division Bench, the question as now sought to be urged again, no longer *res integra.*

In view of the same, I do not find any illegality in the impugned demand on the

basis of the Census figures as arrived at for the year 2001. The Writ Petitions are accordingly, dismissed. No costs.

29-11-2004.

Hsd

Asst.Registrar

To

1 The Principal Secretary, Government of Andhra Pradesh
Revenue [Excise-II] Department, Secretariat Buildings,
Hyderabad.
2 The Commissioner of Prohibition & Excise, A.P.,

Nampally, Hyderabad.,

3 The Prohibition & Excise Superintendent, Warangal
Warangal District, Machilipatnam, Krishna District,

Ranga Reddy District,. Eluru, WestGodavari

Guntur District Nizamabad District and Adilabad District.
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4. The Mandal Revenue Officer, Dharpally Mandal, Nizamabad
District.
5. The Station House Officer, Prohibition and Excise P.S.,
Bheemgal, Nizamabad District.

6. The Prohibition and Excise Inspector, Ghanpur Station

Warangal, Warangal District and Akuveedu,

West Godavari District.

7. 2 C.Cs to G.P. for Prohibition and Excise, High Court of A.

High Court buildings, Hyderabad (OUT)

8. 2 C.D.copies.